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Costco Wholesale Corporation

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE: CATHODE RAY TUBE (CRT)
ANTITRUST LITIGATION

Master File Case No. 3:07-cv-05944-SC

MDL No. 1917

Individual Case No. 3:11-cv-06397-SC

This Document Relates To:

All Indirect Purchaser Actions

Electrograph Systems, Inc., et al. v. Hitachi, Ltd., et al., No. 3:11-cv-01656-SC

Alfred H. Siegel as Trustee of the Circuit City Stores, Inc. Liquidating Trust v. Hitachi, Ltd., et al., No. 3:11-cv-05502-SC

Best Buy Co., Inc., et al. v. Hitachi, Ltd., et al., No. 3:11-cv-05513-SC;

**DECLARATION OF DAVID J. BURMAN
IN SUPPORT OF PLAINTIFFS'
OPPOSITION TO HITACHI
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT BASED UPON
WITHDRAWAL AND THE STATUTES
OF LIMITATIONS**

The Honorable Samuel Conti

1 *Target Corp, et al. v. Chunghwa Picture*
2 *Tubes, Ltd., et al.*, No. 3:11-cv-05514-SC

3 *Sears, Roebuck and Co. and Kmart Corp. v.*
4 *Chunghwa Picture Tubes, Ltd.*, No. 3:11-cv-
05514-SC

5 *Interbond Corporation of America, d/b/a*
6 *BrandsMart USA v. Hitachi, et al.*, No. 3:11-
cv-06275-SC;

7 *Office Depot, Inc. v. Hitachi, Ltd., et al.*, No.
8 3:11-cv-06276-SC;

9 *CompuCom Systems, Inc. v. Hitachi, Ltd., et*
10 *al.*, No. 3:11-cv-06396-SC

11 *Costco Wholesale Corporation v. Hitachi,*
12 *Ltd., et al.*, No. 3:11-cv-06397-SC;

13 *P.C. Richard & Son Long Island*
14 *Corporation, et al. v. Hitachi, Ltd., et al.*,
15 No. 3:12-cv-02648-SC;

16 *Schultze Agency Services, LLC on behalf of*
17 *Tweeter OPCO, LLC and Tweeter Newco,*
18 *LLC v. Hitachi, Ltd., et al.*, No. 3:12-cv-
02649-SC;

19 *Tech Data Corporation, et al. v. Hitachi,*
20 *Ltd., et al.*, No. 3:13-cv-00157-SC

1 I, DAVID J. BURMAN, do testify as follows:

2 1. I am an attorney at the law firm Perkins Coie LLP, counsel of record for Plaintiff
3 Costco Wholesale Corporation (“Costco”) in this action. This declaration is submitted in support
4 of Plaintiffs’ Opposition to Hitachi Defendants’ Motion for Summary Judgment Based Upon
5 Withdrawal and the Statutes of Limitations. The facts set forth here are based on my personal
6 knowledge.

7 2. Attached hereto as **Exhibit 1** is a true and correct copy of excerpts from the Rule
8 30(b)(6) deposition of Hitachi, Ltd., which testified through Patrick Barrett on November 4, 2014,
9 in the above captioned matter.

10 3. Attached hereto as **Exhibit 2** is a true and correct copy of excerpts of Hitachi,
11 Ltd.’s Responses and Objections to Direct Action Plaintiffs’ First Set of Requests for Admission,
12 which were served in the above captioned matter on February 18, 2014.

13 4. Attached hereto as **Exhibit 3** is a true and correct copy of Exhibit A to Costco’s
14 Objections and Responses to Hitachi Asia, Ltd.’s Second Set of Interrogatories, which was served
15 in the above captioned matter on July 21, 2014.

16 5. Attached hereto as **Exhibit 4** is a true and correct copy of the document produced
17 by Hitachi Displays, Ltd., (“HDP”) in the above captioned matter, and identified as HDP-
18 CRT00027193, and a certified translation of that document identified as HDP-CRT00027193E.

19 6. Attached hereto as **Exhibit 5** is a true and correct copy of excerpts from the
20 deposition of Lloyd Thomas Heiser, taken on March 18–19, 2014, in the above captioned matter.

21 7. Attached hereto as **Exhibit 6** is a true and correct copy of excerpts from the Expert
22 Report of Vandy Howell, Ph.D, dated April 15, 2014 in the above captioned matter.

23 8. Attached hereto as **Exhibit 7** is a true and correct copy of excerpts from the
24 deposition of Noboru Toyama, taken on March 11–12, 2014, in the above captioned matter.

25 9. Attached hereto as **Exhibit 8** is a true and correct copy of the document produced
26 by HDP in the above captioned matter, and identified as HDP-CRT00030898, and a certified
27 translation of that document identified as HDP-CRT00030898E.
28

1 10. Attached hereto as **Exhibit 9** is a true and correct copy of the document produced
2 by HDP in the above captioned matter, and identified as HDP-CRT00052643, and a certified
3 translation of that document identified as HDP-CRT00052643E.

4 11. Attached hereto as **Exhibit 10** is a true and correct copy of the document produced
5 by HDP in the above captioned matter, and identified as HDP-CRT00047882, and a certified
6 translation of that document identified as HDP-CRT00047882E.

7 12. Attached hereto as **Exhibit 11** is a true and correct copy of the document produced
8 by Samsung SDI Co. Ltd., in the above captioned matter, and identified as SDCRT-0201774, and
9 a certified translation of that document identified as SDCRT-0201774E.

10 13. Attached hereto as **Exhibit 12** is a true and correct copy of the document produced
11 by HDP in the above captioned matter, and identified as HDP-CRT00030863, and a certified
12 translation of that document identified as HDP-CRT00030863E.

13 14. Attached hereto as **Exhibit 13** is a true and correct copy of the document produced
14 by Chunghwa Picture Tubes, Ltd., (“Chunghwa”) in the above captioned matter, and identified as
15 CHU00028424, and a certified translation of that document identified as CHU00028424E.

16 15. Attached hereto as **Exhibit 14** is a true and correct copy of the document produced
17 by Beijing Matsushita Color CRT Co. Ltd., (“BMCC”) in the above captioned matter, and
18 identified as BMCC-CRT000209947, and a certified translation of that document identified as
19 BMCC-CRT000209947E.

20 16. Attached hereto as **Exhibit 15** is a true and correct copy of the document produced
21 by Chunghwa in the above captioned matter, and identified as CHU00095612, and a certified
22 translation of that document identified as CHU00095612E.

23 17. Attached hereto as **Exhibit 16** is a true and correct copy of the document produced
24 by Chunghwa in the above captioned matter, and identified as CHU00123502, and a certified
25 translation of that document identified as CHU00123502E.

1 18. Attached hereto as **Exhibit 17** is a true and correct copy of the document produced
2 by Hitachi Electronic Devices USA, Inc., (“HED(US)”) in the above captioned matter, and
3 identified as HEDUS-CRT00001714.

4 19. Attached hereto as **Exhibit 18** is a true and correct copy of the document produced
5 by HDP in the above captioned matter, and identified as HDP-CRT00045426.

6 20. Attached hereto as **Exhibit 19** is a true and correct copy of the document produced
7 by HDP in the above captioned matter, and identified as HDP-CRT00026627, and a certified
8 translation of that document identified as HDP-CRT00026627E.

9 21. Attached hereto as **Exhibit 20** is a true and correct copy of the document produced
10 by HDP in the above captioned matter, and identified as HDP-CRT00046269, and a certified
11 translation of that document identified as HDP-CRT00046269E.

12 22. Attached hereto as **Exhibit 21** is a true and correct copy of the document produced
13 by HDP in the above captioned matter, and identified as HDP-CRT00033956, and a certified
14 translation of that document identified as HDP-CRT00033956E.

15 23. Attached hereto as **Exhibit 22** is a true and correct copy of the document produced
16 by HDP in the above captioned matter, and identified as HDP-CRT00033957, and a certified
17 translation of that document identified as HDP-CRT00033957E.

18 24. Attached hereto as **Exhibit 23** is a true and correct copy of the document produced
19 by HED(US) in the above captioned matter, and identified as HEDUS-CRT00159828.

20 25. Attached hereto as **Exhibit 24** is a true and correct copy of the document produced
21 by HED(US) in the above captioned matter, and identified as HEDUS-CRT00164421.

22 26. Attached hereto as **Exhibit 25** is a true and correct copy of the document produced
23 by HED(US) in the above captioned matter, and identified as HEDUS-CRT00164426.

24 27. Attached hereto as **Exhibit 26** is a true and correct copy of the document produced
25 by HED(US) in the above captioned matter, and identified as HEDUS-CRT00164436.

26 28. Attached hereto as **Exhibit 27** is a true and correct copy of the document produced
27 by HED(US) in the above captioned matter, and identified as HEDUS-CRT00159824.
28

1 29. Attached hereto as **Exhibit 28** is a true and correct copy of the document produced
2 by HED(US) in the above captioned matter, and identified as HEDUS-CRT00184595.

3 30. Attached hereto as **Exhibit 29** is a true and correct copy of the document produced
4 by HED(US) in the above captioned matter, and identified as HEDUS-CRT00159829.

5 31. Attached hereto as **Exhibit 30** is a true and correct copy of the document produced
6 by HED(US) in the above captioned matter, and identified as HEDUS-CRT00164462.

7 32. Attached hereto as **Exhibit 31** is a true and correct copy of the document produced
8 by HED(US) in the above captioned matter, and identified as HEDUS-CRT00164429.

9 33. Attached hereto as **Exhibit 32** is a true and correct copy of the document produced
10 by HDP in the above captioned matter, and identified as HDP-CRT00026634, and a certified
11 translation of that document identified as HDP-CRT00026634E.

12 34. Attached hereto as **Exhibit 33** is a true and correct copy of the document produced
13 by HED(US) in the above captioned matter, and identified as HEDUS-CRT00161414.

14 35. Attached hereto as **Exhibit 34** is a true and correct copy of the document produced
15 by HED(US) in the above captioned matter, and identified as HEDUS-CRT00161415.

16 36. Attached hereto as **Exhibit 35** is a true and correct copy of the document available
17 at www.segcl.com.cn/uploads/old/download/11-14/2007-074.pdf, and a certified translation of
18 that document, which were introduced as Exhibit 3801 and 3801E, respectively, during the
19 deposition of Dr. Vandy Howell in the above captioned matter on June 26, 2014.

20 37. Attached hereto as **Exhibit 36** is a true and correct copy of excerpts from the
21 deposition of Nobuaki Ito, taken on May 22–24, 2013, in the above captioned matter.

22 38. Attached hereto as **Exhibit 37** is a true and correct copy of the document produced
23 by HDP in the above captioned matter, and identified as HDP-CRT00026082, and a certified
24 translation of that document identified as HDP-CRT00026082E.

25 39. Attached hereto as **Exhibit 38** is a true and correct copy of the document produced
26 by HDP in the above captioned matter, and identified as HDP-CRT00026313, and a certified
27 translation of that document identified as HDP-CRT00026313E.

1 40. Attached hereto as **Exhibit 39** is a true and correct copy of the document produced
2 by HDP in the above captioned matter, and identified as HDP-CRT00026086, and a certified
3 translation of that document identified as HDP-CRT00026086E.

4 41. Attached hereto as **Exhibit 40** is a true and correct copy of the document produced
5 by HDP in the above captioned matter and identified as HDP-CRT00026108, and a certified
6 translation of that document identified as HDP-CRT00026108E.

7 42. Attached hereto as **Exhibit 41** is a true and correct copy of the Joint Sentencing
8 Memorandum and Plea Agreement in *United States v. Hitachi Displays, Ltd.*, Case No. 3:09-cr-
9 00247-SI, Dkt. 6 (May 17, 2009).

10 43. Attached hereto as **Exhibit 42** is a true and correct copy of excerpts of the Rebuttal
11 Expert Report of Dr. Kenneth G. Elzinga, which was served in the above captioned matter on
12 September 26, 2014.

13 44. Attached hereto as **Exhibit 43** is a true and correct copy of the document produced
14 by Chunghwa in the above captioned matter, and identified as CHU00028396, and a certified
15 translation of that document identified as CHU00028396E.

16 45. Attached hereto as **Exhibit 44** is a true and correct copy of the document produced
17 by HDP in the above captioned matter, and identified as HDP-CRT00025646, and a certified
18 translation of that document identified as HDP-CRT00025646E.

19 46. Attached hereto as **Exhibit 45** is a true and correct copy of excerpts from the
20 deposition of Nobuhiko Kobayashi, taken on May 15–17, 2013, in the above captioned matter.

21 47. Attached hereto as **Exhibit 46** is a true and correct copy of the document produced
22 by HDP in the above captioned matter, and identified as HDP-CRT00049232, and a certified
23 translation of that document identified as HDP-CRT00049232E.

24 48. Attached hereto as **Exhibit 47** is a true and correct copy of the document produced
25 by HDP in the above captioned matter, and identified as HDP-CRT00025985, and a certified
26 translation of that document identified as HDP-CRT00025985E.

1 49. Attached hereto as **Exhibit 48** is a true and correct copy of the document produced
2 by HDP in the above captioned matter, and identified as HDP-CRT00049231, and a certified
3 translation of that document identified as HDP-CRT00049231E.

4 50. Attached hereto as **Exhibit 49** is a true and correct copy of the document produced
5 by HDP in the above captioned matter, and identified as HDP-CRT00023625, and a certified
6 translation of that document identified as HDP-CRT00023625E.

7 51. Attached hereto as **Exhibit 50** is a true and correct copy of the document produced
8 by Toshiba Corporation in the above captioned matter, and identified as TSB-CRT00041746, and
9 a certified translation of that document identified as TSB-CRT00041746E.

10 52. Attached hereto as **Exhibit 51** is a true and correct copy of the document produced
11 by HDP in the above captioned matter, and identified as HDP-CRT00025568, and a certified
12 translation of that document identified as HDP-CRT00025568E.

13 53. Attached hereto as **Exhibit 52** is a true and correct copy of the document produced
14 by HDP in the above captioned matter, and identified as HDP-CRT00023360, and a certified
15 translation of that document identified as HDP-CRT00023360E.

16 54. Attached hereto as **Exhibit 53** is a true and correct copy of the document produced
17 by HDP in the above captioned matter, and identified as HDP-CRT00004416, and a certified
18 translation of that document identified as HDP-CRT00004416E.

19 55. Attached hereto as **Exhibit 54** is a true and correct copy of the document produced
20 by Chunghwa in the above captioned matter, and identified as CHU00047658, and a certified
21 translation of that document identified as CHU00047658E.

22 56. Attached hereto as **Exhibit 55** is a true and correct copy of excerpts of Hitachi,
23 Ltd.'s Second Supplemental Objections and Responses to Indirect-Purchaser Plaintiffs' First Set
24 of Interrogatories, which were served in the above captioned matter on October 14, 2014.

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1 I declare under penalty of perjury that the foregoing is true and correct.

2
3 Executed this 23rd day of December, 2014, at Seattle, Washington.

4
5
6 */s/ David J. Burman*

7 David J. Burman